

REMARKS

It is respectfully requested that this application be reconsidered in view of the above amendments and the following remarks and that all of the claims remaining be allowed.

Rejection Under 35 U.S.C. §102 (Paragraph 7 of the Office Action)

The rejection of claims 21 and 33 under 35 U.S.C. §102(e) in view of Sims et al. (US Patent No. 6,555,520, filed May 9, 2001; hereinafter “the Sims patent”) is respectfully traversed for the reasons set forth below.

The Office Action refers to Section 11 of the office action mailed on December 8, 2003 and Section 8 of the office action mailed on August 2, 2004 for the underlying reasons of this rejection. In a nutshell, these office actions assert that a specific, substantial and credible utility of the claimed invention is only disclosed in the instant specification, filed September 25, 2001, but allegedly not in the priority applications. The office actions thus deem the Sims patent, filed May 9, 2001, as prior art.

Applicants respectfully submit that the earliest priority application (U.S. Application No. 60/101,318, hereinafter “the ‘318 application”) of this application discloses at least one patentable utility. The ‘318 application asserts that IL-B50 shares similar structures and biological functions with IL-7 (page 12, second paragraph, particularly line 32), and that IL-7 exhibits strong effects on lymphopoietic development and differentiation (page 59, lines 21-22). Therefore, a skilled artisan would understand that the ‘318 application discloses a utility of IL-50 as stimulating lymphopoietic development and differentiation. Consistent with the structural and functional similarities, the ‘318 application also discloses that IL-B50 and IL-7 are so closely related that their receptors would share a common subunit, IL-7 α (page 49, lines 25-28).

The specific and substantial utilities asserted in the ‘318 application are also credible. For example, it is shown that IL-B50 induces phosphorylation of Stat3 and Stat5 (page 64, lines 13-16), as well as enhances maturation of dendritic cells (page 67) and expansion/

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development of T cells (page 68). The IL-B50 receptor has been identified, and it indeed contains the alpha subunit of the IL-7 receptor (pages 63-64). The data thus indicate that IL-B50 is a hematopoietic cytokine most closely related to IL-7 (page 68, lines 25-26 of the present application) which stimulates lymphopoietic development and differentiation. Thus, the utilities asserted in the '318 application are specific, substantial and credible.

Accordingly, the claimed invention is entitled to the benefit of the filing date of the '318 application, namely September 21, 1998. Since the Sims patent was filed on May 9, 2001, with an earliest possible priority date of November 13, 1998, it is not prior art with respect to the claimed invention. Therefore, withdrawal of this rejection is respectfully requested.

Conclusions

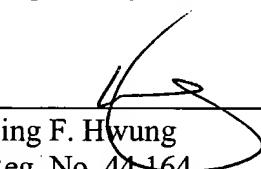
For the reasons set forth above, Applicants submit that the claims of this application are patentable. Reconsideration and withdrawal of the Examiner's objections and rejections are hereby requested.

In the event that a telephone conversation could expedite the prosecution of this application, the Examiner is requested to call the undersigned at (650) 839-5044.

Enclosed is a check in the amount of \$450.00 for the extension fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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Ping F. Hwung
Reg. No. 44,164

Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063
Telephone: (650) 839-5070
Facsimile: (650) 839-5071
50312254.2.doc